



Comptroller General
of the United States

1239118

Washington, D.C. 20548

Decision

Matter of: Space Vector Corporation--Reconsideration

File: B-253295.3

Date: August 12, 1994

DECISION

Space Vector Corporation requests reconsideration of our decision in Space Vector Corp., 73 Comp. Gen. 24 (1993), 93-2 CPD ¶ 273, in which we denied in part and dismissed in part its protest of the award of a sole-source contract to Orbital Sciences Corporation/Space Data Division by the Ballistic Missile Defense Organization (BMDO), Department of Defense, for launch services for the Lightweight Exoatmospheric Projectile (LEAP) program.

We deny the request for reconsideration.

In our prior decision, we found that BMDO reasonably determined that only Orbital could meet the agency's actual program needs within the time required and that the agency's noncompetitive procurement did not arise from a lack of advance procurement planning. In addition, we found that BMDO reasonably procured all the required launches for the LEAP demonstration program in a single procurement, instead of separately competing each launch, where the demonstration program requires that each missile launch exhibit identical performance parameters and that different contractor's missiles would exhibit different performance parameters. We also found that since Space Vector was not a qualified source to provide the launches, it was not an interested party to protest that Orbital had an organizational conflict of interest and that Orbital had received unauthorized source selection information in violation of the Office of Federal Procurement Policy (OFPP) Act, 41 U.S.C. § 423 (1988 & Supp. IV 1992).

Space Vector essentially disagrees with our determination that it could not satisfy the agency's program needs within the time required. In Space Vector's view, BMDO conducted a "fundamentally unfair" and prejudicial qualification process to support a sole-source award to Orbital. Space Vector also disagrees with our conclusion that BMDO reasonably decided to conduct a total-package procurement for the launches. Finally, Space Vector argues that we erred in

determining that it was not an interested party to protest Orbital's alleged conflict of interest or OFPP Act violations.

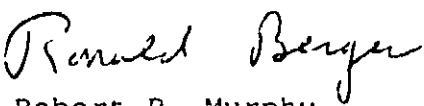
Our Bid Protest Regulations require that a party requesting reconsideration show that our prior decision contain either errors of fact or of law or present information not previously considered that warrants reversal or modification of our decision. 4 C.F.R. § 21.12(a) (1994). Repetition of arguments made during the original protest or mere disagreement with our decision does not constitute a valid basis for reconsideration. R.E. Scherrer, Inc.--Recon., B-231101.3, Sept. 21, 1988, 88-2 CPD ¶ 274.

Space Vector, in challenging our determination of the reasonableness of the agency's sole-source award to Orbital for all the launches in a single procurement concedes the correctness of our factual findings but asserts, based upon a repetition of its prior arguments, that our legal conclusions are in error. We have again reviewed these lengthy arguments and are persuaded that they do not demonstrate that Space Vector could perform all the agency's program requirements within the time required or that the sole source award was not justified. In sum, Space Vector's lengthy contentions are no more than a mere disagreement with our ultimate determination, which provides no basis for reconsideration. See Varec N.V.--Recon., B-247363.7, Mar. 23, 1993, 93-1 CPD ¶ 259.

Space Vector asserts that we erred as a matter of law in determining that it was not an interested party to challenge Orbital's alleged conflict of interest and OFPP Act violations. In Space Vector's view, if Orbital were found ineligible for award, BMDO would be required to change its program requirements, which would allow Space Vector time to become a qualified source. While it may be that if BMDO sufficiently delayed its launch schedule Space Vector could qualify as a program source, this ignores the fact that BMDO's launch schedule reflected actual agency minimum needs, which, as we found in our prior decision, Space Vector could not satisfy within the time required. In this regard, the record shows that the launch delays necessary to allow Space Vector to qualify would imperil the LEAP demonstration program for which the launches were being acquired. While agencies should allow potential sources the opportunity to demonstrate their ability to meet an agency's needs, there is no requirement that the agency inordinately delay its procurement, and in this case risk the program for which the procurement is required, merely to allow an offeror to qualify as a potential source. See Florida Ordnance Corp., B-247363.4, Aug. 31, 1992, 92-2 CPD ¶ 138. Since Space Vector cannot satisfy the agency's minimum needs, regardless of Orbital's alleged conduct, it does not

have the requisite direct economic interest necessary to have its protest considered by our Office. 4 C.F.R. §§ 21.0(a), 21.1(a).

The reconsideration request is denied.


L Robert P. Murphy
Acting General Counsel